

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Second Amended  
Accusation Against:**

**Michael J. Maioriello, M.D.**

**Physician's and Surgeon's  
Certificate No. A 42597**

**Case No.: 800-2019-053465**

**Respondent.**

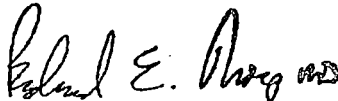
**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 2, 2023.

IT IS SO ORDERED: January 31, 2023.

**MEDICAL BOARD OF CALIFORNIA**



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**Richard E. Thorp, M.D., Chair  
Panel B**

1 ROB BONTA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 CAROLYNE EVANS  
Deputy Attorney General  
4 State Bar No. 289206  
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*Attorneys for Complainant*  
7

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Second Amended  
Accusation Against:

13 **MICHAEL J. MAIORIELLO, M.D.**  
14 **600 Professional Center Dr., #611**  
15 **Novato CA 94947**

16 **Physician's and Surgeon's Certificate No. A**  
17 **42597**

18 Respondent.

Case No. 800-2019-053465

OAH No. 2022040567

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of  
24 California (Board). He brought this action solely in his official capacity and is represented in this  
25 matter by Rob Bonta, Attorney General of the State of California, by Carolyn Evans, Deputy  
26 Attorney General.  
27  
28

2. Respondent Michael J. Maioriello, M.D. (Respondent) is represented in this proceeding by attorney Patricia H. Perry, whose address is: Bradley, Curley, Barrabee & Kowalski, P.C., 1100 Larkspur Landing Circle, Suite 350, Larkspur, CA 94939.

3. On or about April 4, 1986, the Board issued Physician's and Surgeon's Certificate No. A 42597 to Michael J. Maioriello, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in the Second Amended Accusation No. 800-2019-053465, and will expire on January 31, 2024, unless renewed.

### **JURISDICTION**

4. Second Amended Accusation No. 800-2019-053465 was filed before the Board, and is currently pending against Respondent. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent. Respondent timely filed his Notice of Defense contesting the Second Amended Accusation.

5. A copy of the Second Amended Accusation No. 800-2019-053465 is attached as exhibit A and incorporated herein by reference.

### **ADVISEMENT AND WAIVERS**

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Second Amended Accusation No. 800-2019-053465. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in the Second  
3 Amended Accusation No. 800-2019-053465, if proven at a hearing, constitute cause for imposing  
4 discipline upon his Physician's and Surgeon's Certificate.

5 10. Respondent agrees that, at a hearing, Complainant could establish a factual basis for  
6 the charges in the Second Amended Accusation, and that Respondent hereby gives up his right to  
7 contest those charges.

8 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
9 discipline and he agrees to be bound by the Board's probationary terms as set forth in the  
10 Disciplinary Order below.

11 **CONTINGENCY**

12 12. This stipulation shall be subject to approval by the Medical Board of California.  
13 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
14 Board of California may communicate directly with the Board regarding this stipulation and  
15 settlement, without notice to or participation by Respondent or his counsel. By signing the  
16 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
17 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
18 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
19 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
20 action between the parties, and the Board shall not be disqualified from further action by having  
21 considered this matter.

22 13. Respondent agrees that if he ever petitions for early termination or modification of  
23 probation, or if an accusation and/or petition to revoke probation is filed against him before the  
24 Board, all of the charges and allegations contained in the Second Amended Accusation No. 800-  
25 2019-053465 shall be deemed true, correct and fully admitted by respondent for purposes of any  
26 such proceeding or any other licensing proceeding involving Respondent in the State of  
27 California.  
28

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of the agreements of the parties in the above-entitled matter.

16. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 42597 issued to Respondent Michael J. Maioriello, M.D. is revoked. However, the revocations are stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

1 The program shall consist of a comprehensive assessment of Respondent's physical and  
2 mental health and the six general domains of clinical competence as defined by the Accreditation  
3 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to  
4 Respondent's current or intended area of practice. The program shall take into account data  
5 obtained from the pre-assessment, self-report forms and interview, and the Decision, the Second  
6 Amended Accusation, and any other information that the Board or its designee deems relevant.  
7 The program shall require Respondent's on-site participation for a minimum of three (3) and no  
8 more than five (5) days as determined by the program for the assessment and clinical education  
9 evaluation. Respondent shall pay all expenses associated with the clinical competence  
10 assessment program.

11 At the end of the evaluation, the program will submit a report to the Board or its designee  
12 which unequivocally states whether the Respondent has demonstrated the ability to practice  
13 safely and independently. Based on Respondent's performance on the clinical competence  
14 assessment, the program will advise the Board or its designee of its recommendation(s) for the  
15 scope and length of any additional educational or clinical training, evaluation or treatment for any  
16 medical condition or psychological condition, or anything else affecting Respondent's practice of  
17 medicine. Respondent shall comply with the program's recommendations.

18 Determination as to whether Respondent successfully completed the clinical competence  
19 assessment program is solely within the program's jurisdiction.

20 If Respondent fails to enroll, participate in, or successfully complete the clinical  
21 competence assessment program within the designated time period, Respondent shall receive a  
22 notification from the Board or its designee to cease the practice of medicine within three (3)  
23 calendar days after being so notified. The Respondent shall not resume the practice of medicine  
24 until enrollment or participation in the outstanding portions of the clinical competence assessment  
25 program have been completed. If the Respondent did not successfully complete the clinical  
26 competence assessment program, the Respondent shall not resume the practice of medicine until a  
27 final decision has been rendered on the accusation and/or a petition to revoke probation. The  
28 cessation of practice shall not apply to the reduction of the probationary time period.

1           3.    MONITORING - PRACTICE. Within 30 calendar days of the effective date of this  
2 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice  
3 monitor, the name and qualifications of one or more licensed physicians and surgeons whose  
4 licenses are valid and in good standing, and who are preferably American Board of Medical  
5 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
6 relationship with Respondent, or other relationship that could reasonably be expected to  
7 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
8 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
9 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

10           The Board or its designee shall provide the approved monitor with copies of the Decision  
11 and the Second Amended Accusation, and a proposed monitoring plan. Within 15 calendar days  
12 of receipt of the Decision, the Second Amended Accusation, and proposed monitoring plan, the  
13 monitor shall submit a signed statement that the monitor has read the Decision and the Second  
14 Amended Accusation, fully understands the role of a monitor, and agrees or disagrees with the  
15 proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the  
16 monitor shall submit a revised monitoring plan with the signed statement for approval by the  
17 Board or its designee.

18           Within 60 calendar days of the effective date of this Decision, and continuing throughout  
19 probation, Respondent's practice monitoring shall be monitored by the approved monitor.  
20 Respondent shall make all records available for immediate inspection and copying on the  
21 premises by the monitor at all times during business hours and shall retain the records for the  
22 entire term of probation.

23           If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
24 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
25 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
26 shall cease the practice of medicine until a monitor is approved to provide monitoring  
27 responsibility.

28           The monitor(s) shall submit a quarterly written report to the Board or its designee which

1 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
2 are within the standards of practice of medicine and whether Respondent is practicing medicine  
3 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure  
4 that the monitor submits the quarterly written reports to the Board or its designee within 10  
5 calendar days after the end of the preceding quarter.

6 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
7 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
8 name and qualifications of a replacement monitor who will be assuming that responsibility within  
9 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
10 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
11 notification from the Board or its designee to cease the practice of medicine within three (3)  
12 calendar days after being so notified. Respondent shall cease the practice of medicine until a  
13 replacement monitor is approved and assumes monitoring responsibility.

14 In lieu of a monitor, Respondent may participate in a professional enhancement program  
15 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
16 review, semi-annual practice assessment, and semi-annual review of professional growth and  
17 education. Respondent shall participate in the professional enhancement program at Respondent's  
18 expense during the term of probation.

19 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
20 Respondent shall provide a true copy of this Decision and Second Amended Accusation to the  
21 Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership  
22 are extended to Respondent, at any other facility where Respondent engages in the practice of  
23 medicine, including all physician and locum tenens registries or other similar agencies, and to the  
24 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage  
25 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within  
26 15 calendar days.

27 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

28 5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE



1 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
2 advanced practice nurses.

3 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
4 governing the practice of medicine in California and remain in full compliance with any court  
5 ordered criminal probation, payments, and other orders.

6 7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby  
7 ordered to reimburse the Board its costs of investigation and enforcement, including, but not  
8 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena  
9 enforcement, as applicable, in the amount of \$16,347.50 (sixteen thousand, three hundred and  
10 forty-seven dollars and fifty cents). Costs shall be payable to the Medical Board of California.

11 Payment must be made in full within 30 calendar days of the effective date of the Order, or  
12 by a payment plan approved by the Medical Board of California. Any and all requests for a  
13 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with  
14 the payment plan shall be considered a violation of probation.

15 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility  
16 to repay investigation and enforcement costs, including expert review costs (if applicable).

17 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
18 under penalty of perjury on forms provided by the Board, stating whether there has been  
19 compliance with all the conditions of probation.

20 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
21 of the preceding quarter.

22 9. GENERAL PROBATION REQUIREMENTS.

23 Compliance with Probation Unit

24 Respondent shall comply with the Board's probation unit.

25 Address Changes

26 Respondent shall, at all times, keep the Board informed of Respondent's business and  
27 residence addresses, email address (if available), and telephone number. Changes of such  
28 addresses shall be immediately communicated in writing to the Board or its designee. Under no

1 circumstances shall a post office box serve as an address of record, except as allowed by Business  
2 and Professions Code section 2021, subdivision (b).

3 Place of Practice

4 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
5 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
6 facility.

7 License Renewal

8 Respondent shall maintain a current and renewed California physician's and surgeon's  
9 license.

10 Travel or Residence Outside California

11 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
12 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
13 (30) calendar days.

14 In the event Respondent should leave the State of California to reside or to practice  
15 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
16 departure and return.

17 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
18 available in person upon request for interviews either at Respondent's place of business or at the  
19 probation unit office, with or without prior notice throughout the term of probation.

20 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
21 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
22 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
23 defined as any period of time Respondent is not practicing medicine as defined in Business and  
24 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
25 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
26 Respondent resides in California and is considered to be in non-practice, Respondent shall  
27 comply with all terms and conditions of probation. All time spent in an intensive training  
28 program which has been approved by the Board or its designee shall not be considered non-

1 practice and does not relieve Respondent from complying with all the terms and conditions of  
2 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
3 on probation with the medical licensing authority of that state or jurisdiction shall not be  
4 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
5 period of non-practice.

6 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
7 months, Respondent shall successfully complete the Federation of State Medical Board's Special  
8 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
9 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
10 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

11 Respondent's period of non-practice while on probation shall not exceed two (2) years.

12 Periods of non-practice will not apply to the reduction of the probationary term.

13 Periods of non-practice for a Respondent residing outside of California will relieve  
14 Respondent of the responsibility to comply with the probationary terms and conditions with the  
15 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
16 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
17 Controlled Substances; and Biological Fluid Testing.

18 12. COMPLETION OF PROBATION. Respondent shall comply with all financial  
19 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
20 completion of probation. This term does not include cost recovery, which is due within 30  
21 calendar days of the effective date of the Order, or by a payment plan approved by the Medical  
22 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate  
23 shall be fully restored.

24 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
25 of probation is a violation of probation. If Respondent violates probation in any respect, the  
26 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
27 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke  
28 Probation, or an Interim Suspension Order is filed against Respondent during probation, the

1 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall  
2 be extended until the matter is final.

3 14. LICENSE SURRENDER. Following the effective date of this Decision, if  
4 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
5 the terms and conditions of probation, Respondent may request to surrender his license. The  
6 Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
7 determining whether or not to grant the request, or to take any other action deemed appropriate  
8 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
9 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
10 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
11 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
12 application shall be treated as a petition for reinstatement of a revoked certificate.

13 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
14 with probation monitoring each and every year of probation, as designated by the Board, which  
15 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
16 California and delivered to the Board or its designee no later than January 31 of each calendar  
17 year.


18 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for  
19 a new license or certification, or petition for reinstatement of a license, by any other health care  
20 licensing action agency in the State of California, all of the charges and allegations contained in  
21 the Second Amended Accusation No. 800-2019-053465 shall be deemed to be true, correct, and  
22 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding  
23 seeking to deny or restrict license.

#### 24 ACCEPTANCE

25 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
26 discussed it with my attorney, Patricia H. Perry. I understand the stipulation and the effect it will  
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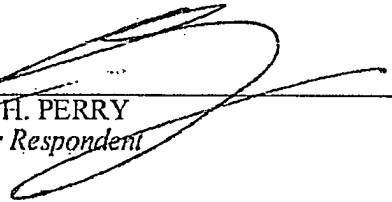
1 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
2 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
3 Decision and Order of the Medical Board of California.

4  
5 DATED: 9/1/22

  
MICHAEL J. MAIORIELLO, M.D.  
Respondent

7 I have read and fully discussed with Respondent Michael J. Maioriello, M.D. the terms and  
8 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
9 I approve its form and content.

10 DATED: 9/1/22

  
PATRICIA H. PERRY  
Attorney for Respondent

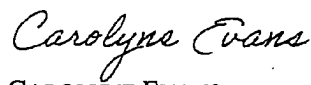
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13 **ENDORSEMENT**

14 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
15 submitted for consideration by the Medical Board of California.

16 DATED: 9/1/2022

17 Respectfully submitted,

18 ROB BONTA  
Attorney General of California  
19 MARY CAIN-SIMON  
Supervising Deputy Attorney General

20   
21 CAROLYNNE EVANS  
22 Deputy Attorney General  
23 Attorneys for Complainant

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1 ROB BONTA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 CAROLYNE EVANS  
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6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Second Amended  
Accusation Against:

Case No. 800-2019-053465

**SECOND AMENDED ACCUSATION**

13 **Michael J. Maioriello, M.D.**  
14 **600 Professional Center Dr., #611**  
15 **Novato, CA 94947**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 42597,**

Respondent.

18  
19  
20  
21 **PARTIES**

22 1. William Prasifka (Complainant) brings this Second Amended Accusation solely in his  
23 official capacity as the Executive Director of the Medical Board of California, Department of  
24 Consumer Affairs (Board).

25 2. On April 14, 1986, the Medical Board issued Physician's and Surgeon's Certificate  
26 Number A 42597 to Michael J. Maioriello, M.D. (Respondent). The Physician's and Surgeon's  
27 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
28 expire on January 31, 2022, unless renewed.

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1           6.     Section 2266 of the Code states:

2           “The failure of a physician and surgeon to maintain adequate and accurate records relating  
3 to the provision of services to their patients constitutes unprofessional conduct.”

4                                   **COST RECOVERY**

5           7.     Effective January 1, 2022, Section 125.3 of the Code provides, in pertinent part, that  
6 the Board may request the administrative law judge to direct a licensee found to have committed  
7 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
8 investigation and enforcement of the case, with failure of the licensee to comply subjecting the  
9 license to not being renewed or reinstated. If a case settles, recovery of investigation and  
10 enforcement costs may be included in a stipulated settlement.

11                                   **RESPONDENT'S PRACTICE**

12           8.     Respondent practices as an obstetrician and gynecologist in Novato, California in a  
13 hospital. Respondent is board certified in obstetrics and gynecology.

14                                   **FIRST CAUSE FOR DISCIPLINE**

15                                   **(Gross Negligence/Repeated Negligent Acts/Incompetence)**

16           9.     In August of 2015, Patient 1<sup>1</sup>, a 48-year-old female presented to her primary care  
17 physician because she was experiencing abdominal pain. The primary care physician investigated  
18 the possibility of appendicitis. Patient 1 underwent an appendectomy in September 2015 and as  
19 part of the preoperative evaluation, an ultrasound and CT scan were performed. The primary care  
20 doctor documented a pelvic mass and ordered an MRI scan on September 8, 2015. A radiologist  
21 who read the MRI noted that there were significant concerns regarding an abdominal cervical  
22 mass on the MRI scan. The report described in detail characteristic imaging consistent with a  
23 neoplasm (abnormal growth of cells) and no findings consistent with a fibroid (non-cancerous  
24 growths in the uterus).

25  
26  
27           <sup>1</sup> The patient is referred to by number to protect her privacy. Respondent is aware of the  
28 patient's true identity.



1       10. On September 10, 2015, Patient 1 had an office visit with her primary care doctor,  
2 who recommended that the patient immediately follow-up with her gynecologist (Respondent).  
3 The primary doctor was so concerned about the MRI findings that she expedited an urgent visit  
4 for the patient with Respondent for the next day, September 11, 2015.

5       11. On September 11, 2015, Respondent evaluated Patient 1. Respondent had previously  
6 treated Patient 1 and was therefore familiar with her history, including abnormal uterine bleeding.  
7 Respondent had prescribed hormonal therapy to treat the patient's abnormal uterine bleeding.  
8 Respondent had received a copy of the MRI report from the patient's primary care physician.  
9 Respondent told Patient 1 that there was nothing serious that needed immediate follow-up and  
10 that the MRI findings and abnormal bleeding were attributed to fibroids.

11       Respondent did not document in the medical records that he had previously prescribed  
12 hormonal therapy to Patient 1 and that it had no efficacy in addressing her bleeding. Respondent  
13 failed to consider and/or document that the patient was suffering from a possible bleeding  
14 disorder, or other endocrine etiologies such as anovulation, other anatomic possibilities (polyps)  
15 or perimenopausal or postmenopausal conditions. Respondent did not document the urgency of  
16 the visit at the behest of Patient 1's primary care physician. Respondent only noted that the visit  
17 was a "PPB" (pelvic, pap, and breast) visit. Respondent failed to document the MRI report in the  
18 medical records, which was the reason for the visit. Respondent scheduled Patient 1 to come  
19 back for a routine annual exam in December 2015.

20       12. In December 2015, Patient 1 told Respondent that she had a lot of menstrual bleeding.  
21 Respondent ordered additional hormonal (birth control pill) therapy and recommended scheduling  
22 a surgical dilation and curettage<sup>2</sup> and possible endometrial ablation for March 2016. A pap test  
23 was done showing endometrial cells. Patient 1 bled with the pap test. Respondent did not order  
24 any endometrial sampling and/or fractional dilation.

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27       <sup>2</sup> A dilation and curettage is a surgical procedure in which the cervix (lower, narrow part  
28 of the uterus) is dilated so that the uterine lining (endometrium) can be scraped with a curette  
(spoon-shaped instrument) to remove abnormal tissues.

1       13. On March 15, 2016, after a preoperative evaluation, Patient 1 called and cancelled the  
2 dilation and curettage/ablation and said she was considering a hysterectomy instead. Patient 1  
3 had talked to nonmedical friends who recommended to her that she get a hysterectomy.  
4 Respondent agreed to perform a hysterectomy but did not document an explanation or medical  
5 indication for the hysterectomy. Respondent scheduled Patient 1 for a laparoscopic supracervical  
6 hysterectomy<sup>3</sup> (LSH or hysterectomy) to be performed in April 2016. The LSH was later  
7 rescheduled to August 2016.

8       14. On August 11, 2016, Respondent performed an uncomplicated LSH on Patient 1.  
9 The pathology report showed that a well-differentiated adenocarcinoma<sup>4</sup> had been transected  
10 through at the upper aspect of the cervix. Respondent called Patient 1 and referred her  
11 immediately for further evaluation and treatment by a gynecologic oncologist. Subsequently,  
12 Patient 1 underwent radiation therapy and chemotherapy.

13       15. Respondent is guilty of unprofessional conduct in his care and treatment of Patient 1,  
14 and is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or  
15 2234(d) of the Code in that he committed gross negligence and/or repeated negligent acts and/or  
16 demonstrated incompetence, including but not limited to the following:

17       A. Respondent incorrectly interpreted Patient 1's worrisome MRI findings in that he  
18 concluded that the findings were attributed to fibroids even though the MRI report was detailed in  
19 describing characteristic imaging consistent with a neoplasm and not fibroids;

20       B. Respondent failed to explain to Patient 1 why a dilation and curettage with ablation  
21 was a necessary diagnostic and possibly therapeutic procedure for her abnormal bleeding and  
22 other medical issues. Patient 1 had talked to nonmedical friends who recommended that she get a  
23 hysterectomy and she told Respondent that she wanted a hysterectomy. Respondent had a duty to  
24 convey to Patient 1 that the appropriate procedure given the information at the time was a dilation  
25 and curettage and not a hysterectomy. Respondent did not document why a hysterectomy was

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27       <sup>3</sup> A supracervical hysterectomy is a procedure that removes the uterus.

28       <sup>4</sup> Adenocarcinoma (AC) is a type of cancerous tumor.

1 medically indicated and performed an unindicated and inappropriate hysterectomy and left the  
2 patient's cervix in place even though his preoperative assessment stated that a cervical fibroid  
3 was partly the reason for the patient's bleeding; and

4 C. Respondent failed to properly evaluate Patient 1's menometrorrhagia<sup>5</sup> and abnormal  
5 uterine bleeding by endometrial sampling and/or fractional dilation and curettage prior to  
6 performing the hysterectomy.

## 7 **SECOND CAUSE FOR DISCIPLINE**

### 8 **(Failure to Maintain Accurate and Adequate Medical Records)**

9 16. Respondent is guilty of unprofessional conduct and subject to discipline for violation  
10 of Section 2266 of the Code for failure to keep adequate and accurate medical records for Patient  
11 1. Specifically, Respondent failed to document that the MRI report and findings were the reasons  
12 for the urgent visit and not a PPB visit. The standard of care required that Respondent accurately  
13 record the purpose or chief complaint associated with the office visit on September 11, 2015.  
14 Respondent also failed to document the medical indication for the hysterectomy that he  
15 performed on the patient.

## 16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
18 and that following the hearing, the Medical Board of California issue a decision:

19 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 42597,  
20 issued to Respondent Michael J. Maioriello, M.D.;

21 2. Revoking, suspending or denying approval of Respondent Michael J. Maioriello,  
22 M.D.'s authority to supervise physician assistants and advanced practice nurses;

23 3. Ordering Respondent Michael J. Maioriello, M.D., to pay the Board the costs of the  
24 investigation and enforcement of this case, and if placed on probation, the costs of probation  
25 monitoring; and  
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28 <sup>5</sup> Menometrorrhagia is a condition marked by abnormally heavy, prolonged, and irregular  
uterine bleeding.

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4. Taking such other and further action as deemed necessary and proper.

DATED: JUL 07 2022

  
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WILLIAM PRASIFKA  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*